

REMARKS

The Examiner's continued attention to the application is noted with appreciation.

The Examiner rejected claims 1, 2, 7, 8, 11, 12, 17, and 18 under 35 U.S.C. § 102(b) as being anticipated by Bell. This rejection is traversed, particularly as to the claims as amended. Bell discloses a system for predicting theoretical responses of viewers. Applicant's invention measures actual viewer responses. Thus Bell teaches away from Applicant's invention.

The Examiner asserts that a consensus of the user's desires are achieved with Bell. Bell, however, discloses a process in which the creator of the document is also the person who is reviewing the document. Applicant, in contrast, teaches that "an evaluator" observes aspects of transparency, color tingeing, or a combination thereof for each spatial region which is "correlated" with "viewer" reactions.

The Examiner asserts, in paragraph 3 of page 1 of the Office Action, that "the viewer reacts, and based on the consensus of the viewer reaction and the parameters of the system, tingeing occurs." Applicant, however, respectfully disagrees. In Bell, as noted by the Examiner on page 8 of the Office Action, the viewer does not react, rather gradation is chosen based on a look up table (Col. 15, Lines 1-47), and can be evaluated through means using the electronic grid system (Col. 13, Lines 26-57). Based on these statements it is evident that gradation is chosen based on a table, not based on the consensus of actual viewer reactions. It is further evident that if gradation is chosen and can later be evaluated then the gradation must occur before any consensus of viewer reactions can take place. The invention disclosed by Bell is so entirely different from the teachings of Applicant that the two inventions can be used in conjunction with one another with no overlap occurring. Using the two inventions in conjunction with one another, a layout person would first create something to the best of his ability using the teachings of Bell. Afterwards, the teachings of Applicant would apply. Whereupon, the document would be shown to viewers and based on their cognitive reactions; each spatial region of the display would have its transparency, color tingeing, or a combination thereof altered to reflect the viewers' cognitive reactions.

Applicant's invention relates to "determining effectiveness of ... presentations" (Page 1, Line 17); "an effective means of judging the effects of the advertisement on the consumer" (Page 1, Lines 17 & 18);

and "how an audience or sample of research subjects processes and responds to visually complex display objects" (Page 3, Lines 26 & 27). Bell states that "the user can use objective determinations of the purpose of the document to determine which is the most relevant psychological tests to apply" (Col. 16, Lines 50-52). Thus, the user in Bell's invention is the same person who determines which tests to apply, while the user in Applicant's invention is a viewer who is not afforded the ability to determine which tests to apply. The viewer in Applicant's invention is only afforded the ability to report his "cognitive" evaluation of the end product.

Claims 1 and 11 have been amended to better distinguish between the viewer and an evaluator in that Applicant's invention includes the step of "displaying to **an evaluator** the display object with an aspect of a display of each spatial region being a function of the correlated **viewer reactions** for the region" (emphasis added).

Concerning claims 7 and 17, these claims have been canceled.

The Examiner rejected claims 1, 2, 4, 9, 11, 12, 14, and 19 under 35 U.S.C. § 102(b) as being anticipated by Borah et al. (hereinafter Borah). This rejection is traversed, particularly as to the claims as amended.

On page 4 of the Office Action, the Examiner, in discussing Borah, stated that "[t]he fact that the user is interested in the area is a reason enough to modify by transparency or tingeing to indicate the area of interest to the user." Applicant's invention, however, requires an evaluator to collect viewers' "cognitive" reactions. Borah, in contrast, discloses that "the eye movement measurements being made in accordance with the new method are, to the best extent possible, involuntary and psychologically objective". (Col. 3, lines 66-68 and Col. 4, line 1). Since movements that are "involuntary and psychologically objective" do not constitute "cognitive" actions, Borah fails to anticipate Applicant's claims, and in fact teaches away from the present invention.

The Examiner rejected claims 1, 4, 5, 8, 10, 11, 14, 15, 18, and 20 under 35 U.S.C. § 102(e) as being anticipated by Tognazzini. The rejection is traversed, particularly as to the claims as amended.

The Examiner indicated, in regards to the Tognazzini invention, that the final magnification, which is optional for viewers, constitutes displaying the display object with an aspect of a display of each spatial region being a function of the viewer reactions for the region. Claims 1 and 11, however, have been amended to better claim Applicant's invention in that it relates to an invention wherein aspects of "transparency, color tingeing, [or] a combination thereof" are "correlated [with] viewer reactions" for a given region. Since Tognazzini fails to disclose altering aspects of "transparency, color tingeing, [or] a combination thereof", as well as displaying the altered aspects to "an evaluator", Tognazzini does not anticipate Applicant's claims. Furthermore, as with Borah, Tognazzini relates to tracking eye movements, not cognitive responses.

The Examiner rejected claims 3, 6, 7, 13, 16, and 17 under 35 U.S.C. § 103(a) as being unpatentable over Borah. The rejection is traversed.

Regarding claims 3 and 13, Borah discloses an invention which has the stated intent of making measurements of "involuntary and psychologically objective" movements. (Col. 3, lines 66-68 and Col. 4, line 1). Since claim 3 is a further limitation of independent claim 1, which itself is directed toward collecting "cognitive viewer reactions", a limitation that exposure occurs for a duration of between 1/4 and 4 seconds cannot itself be an obvious improvement of Borah's invention. Thus, Claims 3 and 13 are patentable over Borah.

Regarding claims 6, 7, 16, and 17, these claims have been canceled. However, their substance has been incorporated into amended claims 1 and 11. The Examiner stated that: "the features upon which applicant relies (i.e., 'the tingeing and transparency are not being used for the purpose of directly improving the underlying image but rather the purpose of conveying information. . . design variations for an image') are not recited in the rejected claim(s)." Newly amended claims 1 and 11 as well as the dependent claims thereof do inherently include this limitation since viewer reactions are now "correlated" with the aspect of "transparency, color tingeing, [or] a combination thereof". The visible aspects of transparency and color tingeing, as correlated to viewer reactions, enables those reactions to be conveyed to an "evaluator".

The Examiner rejected claims 3, 6, 7, 9, 13, 16, 17, and 19 under 35 U.S.C. § 103(a) as being unpatentable over Tognazzini. The rejection is traversed.

As previously mentioned, claims 6, 7, 16, and 17, have been canceled and their substance incorporated into amended claims 1 and 11. Tognazzini fails to teach modifying aspects of a document for display to "an evaluator" based on "viewer reactions". While Tognazzini may teach that aspects of a document can be modified, but Tognazzini fails to display the modified document to an evaluator. Thus, Tognazzini fails to meet the limitation that the document is then "[displayed] to an evaluator...with an aspect of the display of each spatial region being a function of the correlated viewer reactions for the region". Since the teachings of Tognazzini could likely apply to virtually any word document, it would not be reasonable for one skilled in the art to display to an evaluator what each viewer is viewing. Thus, Tognazzini not only fails to anticipate Applicant's invention, but Applicant's invention would not be obvious to those skilled in the art since applying the teachings of Applicant to the invention disclosed by Tognazzini would result in massive floods of electronic images being displayed to the evaluator.

In conclusion, Claims 6, 7, 16, and 17 have been cancelled and their substance incorporated into claims 1 and 11. Claims 1 and 11 have been further amended to better claim Applicant's invention in that aspects of transparency and or color tingeing are correlated to viewer cognitive reactions which are then displayed to an evaluator.

Authorization is given to charge payment of any additional fees required, or credit any overpayment, to Deposit Acct. 13-4213. An earnest attempt has been made to respond to each and every ground of rejection advanced by the Examiner, without introduction of new matter or raising new issues. However, should the Examiner have any queries, suggestions or comments relating to a speedy disposition of the application, the Examiner is invited to call the undersigned.

Reconsideration and allowance are respectfully requested.

Respectfully submitted,

By:

Jeffrey D. Myers, Reg. No. 35,964
Direct Dial: (505) 998-1502

PEACOCK, MYERS & ADAMS, P.C.
Attorneys for Applicant
P.O. Box 26927
Albuquerque, New Mexico 87125-6927
Phone: (505) 998-1500
Fax: (505) 243-2542

Customer No. 005179

G:\AMDS\Young\Young-CY Portrayal of... Res. to Final OA.doc